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NOT TO BE PUBLISHED

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Sacramento)

In re the Marriage of HOA HOANG NGUYEN and VAN KHANH VU.	C086837
HAO HOANG NGUYEN, Respondent, v. VAN KHANH VU, Appellant.	(Super. Ct. No. 12FL04462)

This is a judgment roll appeal in a marital dissolution proceeding. Because appellant Van Khanh Vu fails to show any error on the face of the record, we affirm.

BACKGROUND

Trial on the parties' dissolution was held for 15 days between October 2016 and June 2017. Both parties submitted trial briefs and written closing statements, and both were represented by counsel. Following trial, the court issued a partial tentative decision.

In its partial tentative decision, the court found that before the parties' marriage, appellant "studied to become (and thereafter did become) a chiropractor." In the process

of becoming a chiropractor, appellant acquired student loan debt. The parties disagreed about how much of that debt was paid by the marital community. The court "painstakingly studied the parties' briefs on this issue" and determined the community paid $141,926 of that student loan debt, including principal and interest. The court further found the community did not substantially benefit from the expenditure of those funds because "the revenue generated by [appellant] was far below that which would be expected from the normal use of such a credential." The court thus ordered appellant to reimburse respondent Hao Hoang Nguyen $141,926 plus "interest at the legal rate as provided in Family Code section 2641(b)(1)."

The court also detailed the parties' disagreement over the approximately $100,000 respondent's parents transferred to the community in 2003. The court found the "transfer of funds to the parties from [respondent's] parents . . . was not a gift"; there was an expectation the funds would be repaid. After considering the evidence, the court concluded appellant's obligation to repay the loan was satisfied and any remaining balance was respondent's "sole and separate obligation."

The parties also litigated appellant's claim that, at the date of separation, respondent took $15,000 cash from the community. The court found respondent disclosed that $15,000 in a property declaration filed in June 2012. The court also found respondent "documented that approximately $15,000 went into his Golden One account between June and November 2012, during a time when he was trying to make substantial repairs to . . . property, which was bought for cash in July 2012. [Respondent] was also trying to buy a house for himself and was seeking funds to enhance his creditworthiness."

The court resolved numerous other issues not relevant to this appeal, but the court expressly did not resolve appellant's claim that respondent breached his fiduciary duty to her. That determination, the court said, "will come at a later time."

After the court issued its partial tentative decision, respondent waived a statement of decision. Appellant, however, did request a statement of decision on 23 separate

issues. In response, the court issued a partial statement of decision, in which the court found the 23 separate issues identified in appellant's request for a statement of decision were "detailed and argumentative assertions of [appellant's] positions on various specific issues." The court went on to address the " 'principal controverted issues' raised by [appellant's] Request for a Statement of Decision." In large part, the court found it had "already sufficiently discussed [the issues], and the legal and factual [bases] for [them]" in its partial tentative decision. The court thus adopted its partial tentative decision with some modifications.

Appellant objected to the court's partial statement of decision. The court nevertheless incorporated the partial statement of decision, along with the partial tentative decision, into the court's judgment. The court included some modifications, including one related to appellant's student loan debt: the $141,926 plus interest was not to be reimbursed to respondent, as indicated in the partial tentative decision, but to the community.

DISCUSSION

Principles of Appellate Review

Generally, the judgment is presumed correct on appeal and we indulge in all intendments and presumptions in favor of its correctness. (*In re Marriage of Arceneaux* (1990) 51 Cal.3d 1130, 1133.) However, if the "statement of decision does not resolve a controverted issue, or if the statement is ambiguous and the record shows that the omission or ambiguity was brought to the attention of the trial court . . . , it shall not be inferred on appeal . . . that the trial court decided in favor of the prevailing party as to those facts or on that issue." (Code Civ. Proc., § 634.)

It is the appellant's burden "to provide an adequate record to assess error." (*Nielsen v. Gibson* (2009) 178 Cal.App.4th 318, 324.) Appellant has elected to proceed with her appeal on only a clerk's transcript. (Cal. Rules of Court, rules 8.121 & 8.122.) Thus, the appellate record does not include a reporter's transcript of the hearing on these

matters. This sometimes is referred to as a "judgment roll" appeal. (*Allen v. Toten* (1985) 172 Cal.App.3d 1079, 1082; *Krueger v. Bank of America* (1983) 145 Cal.App.3d 204, 207.)

In a judgment roll appeal, the presumption of correctness has "special significance." (*Ehrler v. Ehrler* (1981) 126 Cal.App.3d 147, 154 (*Ehrler*).) We must conclusively presume evidence was presented that is sufficient to support the court's findings. (*Ibid*.) We do not presume the record contains all matters material to a determination of the points on appeal unless the asserted error "appears on the face of the record." (Cal. Rules of Court, rule 8.163; *National Secretarial Service, Inc. v. Froehlich* (1989) 210 Cal.App.3d 510, 521.) "[I]f any matters could have been presented to the court below which would have authorized the order complained of, it will be presumed that such matters were presented." (*Riley v. Dunbar* (1942) 55 Cal.App.2d 452, 455.)

These rules of appellate procedure apply to appellant even though she is representing herself on appeal. (*Leslie v. Board of Medical Quality Assurance* (1991) 234 Cal.App.3d 117, 121; see also *Nelson v. Gaunt* (1981) 125 Cal.App.3d 623, 638-639, disapproved on other grounds in *Douglas v. Ostermeier* (1991) 1 Cal.App.4th 729, 744, fn. 1; *Wantuch v. Davis* (1995) 32 Cal.App.4th 786, 795.)

I

Appellant's Student Loans

Appellant contends the trial court erred in ordering her to reimburse the community $141,926 for the money the community paid toward appellant's student loan debt. Appellant makes several arguments in support of her contention; none are supported by the record on appeal.

A. *Applicable Law*

"The community shall be reimbursed for community contributions to education or training of a party that substantially enhances the earning capacity of the party." (Fam. Code, § 2641, subd. (b)(1).) "The reimbursement right is limited to cases where the

earning capacity of a party is substantially enhanced. This limitation is intended to restrict litigation by requiring that the education or training must demonstrably enhance earning capacity and to implement the policy of the section to redress economic inequity." (Cal. Law Revision Com. com., 29D West's Ann. Fam. Code (2004 ed.) foll. § 2641, p. 604.)

The reimbursement shall be reduced or modified when the community has substantially benefited from the education of the party. (Fam. Code, § 2641, subd. (c)(1).) A rebuttable presumption exists "that the community has substantially benefited from community contributions to the education or training made more than 10 years before the commencement of the proceeding." (*Ibid*.) Unless the party seeking reimbursement overcomes this presumption, "reimbursement is limited to contributions made during the preceding ten years to minimize proof problems as well as potential inequity." (Cal. Law Revision Com. com., 29D West's Ann. Fam. Code, *supra*, foll. § 2641, at p. 604.) At the same time, there is a rebuttable presumption that the community has not substantially benefited from contributions made fewer than 10 years before the proceeding. (*Ibid*.)

B. *Analysis*

Appellant argues the trial court failed to make the required finding under Family Code section 2641 that her earning capacity was "substantially enhanced" by her education and training. Appellant filed a detailed request for a statement of decision, asking for findings on numerous issues. She did not, however, ask the trial court for a finding on whether her earning capacity was substantially enhanced by her chiropractic degree. Nor did she object to the partial statement of decision on the ground that it failed to include this finding. We must therefore assume the trial court found appellant's earning capacity was substantially enhanced by her education and training. (See Code of Civ. Proc., § 634 and *In re Marriage of Arceneaux*, *supra*, 51 Cal.3d at pp. 1133-1134.)

Appellant also argues there was insufficient evidence to support findings that her earning capacity was substantially enhanced by her education and training, and that the community paid $141,926 toward her student loan debt. In this judgment roll appeal, " '[the] question of the sufficiency of the evidence to support the findings is not open.' " (*Allen v. Toten, supra,* 172 Cal.App.3d at p. 1082.) Instead, we presume that all findings by the trial court are supported by substantial evidence, and we can only consider whether the judgment is supported by the findings or whether reversible error " 'appears on the face of the record.' " (*Nielsen v. Gibson, supra,* 178 Cal.App.4th at pp. 324-325.) Appellant has not met her burden of establishing error on this record.

Finally, appellant challenges the manner in which the trial court calculated the amount she owed to the community for payment of her student loan debt. She argues that "[n]othing in the trial court's decisions and orders indicates that it calculated community payments based on the date the proceedings were commenced." Thus, she argues, the court could not rule on the rebuttable presumptions described in Family Code section 2641 in order to determine whether the community benefited from her education. She also argues the trial court "failed to weigh evidence regarding whether an order of reimbursement would be unjust" and failed to consider "other equitable grounds raised by [appellant]." Appellant's claims do not withstand scrutiny.

The trial court was not required to explain the details of how it reached its findings. (See *Golden Eagle Ins. Co. v. Foremost Ins. Co.* (1993) 20 Cal.App.4th 1372, 1379-1380 [trial court is sufficient if it fairly discloses the court's determination as to ultimate facts and material issues].) We presume the trial court correctly performed its function by considering the parties' arguments and weighing the evidence. (Evid. Code, § 664; see *People v. Duran* (2002) 97 Cal.App.4th 1448, 1461-1462, fn. 5; *Olivia v. Suglio* (1956) 139 Cal.App.2d 7, 9 ["If the invalidity does not appear on the face of the record, it will be presumed that what ought to have been done was not only done but rightly done"].) And again, on this judgment roll appeal, we must presume the evidence

submitted at trial was sufficient to support the court's finding. (See *Ehrler*, *supra*, 126 Cal.App.3d at p. 154.) Appellant fails to identify where, on the face of this record, the court committed error.

In sum, appellant's contention that the trial court erred in ordering her to reimburse the marital community $141,926 for the community's contribution toward her student loan debt is not supported by the record; appellant has failed to meet her burden on appeal.

II

Breach of Fiduciary Duty

A. *Loan from Respondent's Parents*

Appellant contends the trial court erred in not "considering the threshold issue" of whether respondent breached his fiduciary duties to appellant before determining the community was liable for the $100,000 loan from respondent's parents. She cites no authority to support her assertion that whether respondent breached his fiduciary duty to her must be decided before the trial court can find a debt belongs to the community. Her claim is thus forfeited. (Cal. Rules of Court, rule 8.204(a)(1)(B); see *Keyes v. Bowen* (2010) 189 Cal.App.4th 647, 655-656 [appellant is required to present legal authority in support of each issue raised, along with citations to the record, otherwise the issue may be deemed forfeited]; see also *Lewis v. County of Sacramento* (2001) 93 Cal.App.4th 107, 113 [it is appellant's burden to support claims of error with citation to legal authority].)

Moreover, the trial court stayed "implementation of division and distribution of property" under the judgment until "further order of the court or written agreement of the parties." Thus, appellant has failed to establish how she is prejudiced by the court's order when the order has yet to be executed and cannot be enforced. (*Paterno v. State of California* (1999) 74 Cal.App.4th 68, 106 [appellant has a "duty to tender a proper prejudice argument"].)

B. *$15,000*

Appellant claims the trial court erred in denying her claim that respondent must reimburse the community $15,000 for money he took from the community after the parties separated. She argues the trial court reached its decision "[w]ithout considering [respondent's] duty to disclose his use of those funds to [appellant]." The record does not support appellant's claim.

The trial court expressly found respondent disclosed those funds in a court filing in June 2012. The court also found respondent credibly documented the use of those funds. On this, a judgment roll appeal, we must presume there was evidence sufficient to support those findings. (See *Ehrler*, *supra*, 126 Cal.App.3d at p. 154.)

III

Request for Judicial Notice

In February 2019, appellant filed a request for judicial notice of pleadings filed in the trial court in January 2019. We deferred ruling on the request. We now deny the request because the documents are unnecessary to the disposition of this appeal. (*Atempa v. Pedrazzani* (2018) 27 Cal.App.5th 809, 819-820.)

DISPOSITION

The judgment is affirmed. Costs on appeal are awarded to respondent. (Cal. Rules of Court, rule 8.278(a).)

KRAUSE, J.

We concur:

HULL, Acting P. J.

BUTZ, J.